THE HON'BLE MS JUSTICE G.ROHINI

Review W.P.M.P.No.9667 of 2006 in
WRIT PETITION NO: 7902 of 2005

Dated: 26-10-2006

Between:

Kakarla Rajani

..... PETITIONERS

AND

The Circle Inspector of Police,
Tadepalligudem, West Godavari District
and others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G. ROHINI

REVIEW W.P.M.P.No.9667 OF 2006
IN
WRIT PETITION No.7902 OF 2005

ORDER:

Writ Petition No.7902 of 2005 was filed seeking a *mandamus* directing respondents 2 and 3 herein, i.e., Circle Inspector of Police, Tadepalligudem Circle and the Sub-Inspector of Police, Nallajerla Police Station, to register the report dated 12.11.2004 given by the petitioner's father as well as the reports given by her on 10.12.2004 & 17.3.2005 and to investigate according to law. The said writ petition was disposed of by this Court by order dated 10.3.2006 holding as under:

> "……Though a copy of the complaint said to have been made by the petitioner on 12.11.2004 is placed before this Court, there is absolutely no material to show that the said complaint was actually received in the office of the respondents 1 and 2. In the circumstances, I am unable to hold that there is any inaction on the part of the respondents 1

> and 2 based on the complaint said to have been made by the petitioner on 12.11.2004.
>
> In the circumstances, though a writ of Mandamus as prayed for cannot be issued, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to send a copy of the said complaint to the respondents 1 and 2 as well as the Superintendent of Police by Registered Post, in which event the respondents shall take the necessary steps in accordance with law."

Subsequently, the writ petitioner filed this review petition to review the order dated 10.3.2006 by permitting her to send copies of the complaints made by her on 10.12.2004 and 17.3.2005 also to respondents 2 and 3 - police officials, so as to take necessary further action.

Heard the learned counsel for the review petitioner/writ petitioner as well as the learned counsel appearing for respondents 3 and 4 and the learned Government Pleader for Home.

The learned counsel for the respondents 3 and 4 opposed the review petition contending that the same is not maintainable in view of the decision of the Supreme Court in **Minu Kumari v. State of Bihhar**[1]**.** In the said decision, it was held by the Apex Court that when the information was laid with the police, but no action in that behalf was taken, the complainant was given power under Section 190 read with Section 200 of the Code of Criminal Procedure to lay complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire into the complaint as provided in Chapter XV of the Code. It was also observed that a writ petition in such cases is not to be entertained.

The well-settled principle reiterated in the above decision has no application to the case on hand, since this is not a case where this Court found that police failed to take action on the basis of the reports made by the petitioner and her father. This Court having found that there was absolutely no material to show that such complaints were actually received by police, while declining to hold that there was any inaction on the part of police, disposed of the writ petition granting

liberty to the petitioner to send a copy of the complaint to respondents 1 an 2 as well as Superintendent of Police by registered post, in which event they shall take necessary steps in accordance with law.

Hence, I do not find any substance in the contention that the writ petition itself was not maintainable.

At any rate, respondents 3 and 4 had not sought for review of the said order on any ground whatsoever, much less preferred any appeal questioning the correctness of the order in the writ petition. Hence, it is not open to them to contend in the Review Petition filed by the writ petitioner that the writ petition itself is not maintainable.

As noted above, the writ petitioner filed this review petition bringing to the notice of this Court that while disposing of the writ petition, this Court did not refer to two other reports made by her on 10.12.2004 and 17.3.2005. The omission to refer to the said two reports/complaints is apparently due to inadvertent mistake constituting an error apparent on the face of the record. Therefore, the order in W.P.No.7902 of 2005 deserves to be reviewed as prayed for.

Accordingly, the review petition is ordered and the order dated 10.3.2006 in W.P.No.7902 of 2006 shall stand substituted as under:

> This writ petition is filed aggrieved by the alleged action on the part of the respondents 1 and 2 - Police Officials, in not registering the report dated 12.11.2004 said to have been made by the petitioner's father as well as the complaints made by her on 10.12.2004 and 17.3.2005, and failure on their part to register First Information Report and investigate into the said complaints.
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> Though copies of the complaints dated 12.11.2004, 10.12.2004 and 17.3.2005 are placed before this Court there is absolutely no material to show that the said complaints were actually received in the office of the respondents 1 and 2. In the circumstances, I am unable to hold that there is any inaction on the part of the respondents 1 and 2 based on the said complaints.

In the circumstances, though a writ of *mandamus* as prayed for cannot be issued, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to send copies of the said complaints dated 12.11.2004, 10.12.2004 and 17.3.2005 to the respondents 1 and 2 as well as the Superintendent of Police by registered post, in which event the respondents shall take necessary steps in accordance with law.

The writ petition is accordingly disposed of. No costs.

The Review Petition is ordered accordingly.

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(G. ROHINI, J.)

26th October, 2006.

Note:

Furnish CC in two days.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

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REVIEW W.P.M.P.No.9667 OF 2006
IN
WRIT PETITION No.7902 OF 2005

October, 2006.

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[1] 2006(4) SCC 359.